

REMARKS

Claims 1-9, as amended, and new claims 10-12 appear in this application for the Examiner's review and consideration. New claims 10-12 are based on current claims 4-6 and are re-written to avoid improper multiple dependencies. No new matter has been entered.

Claims 4-6 were objected to as being in improper form. In response, claims 4-6 have been amended to have proper dependency and the subject matter deleted from those claims now appears in new claims 10-12. Thus, the objection should be withdrawn.

Claims 1-3 and 7-9 were rejected as being unpatentable over US patent 5,166,412 to Giersch et al. ("Giersch"). Applicant traverses the rejection.

The present invention relates to compounds that when added to a perfuming composition or perfume, the compound provides a musky-green odor character note. In particular the green character imparted by these compounds is a fresh note having a Galbanum (see the attached description of the Galbanum odor) and green-pear's peel connotation. These compounds are unique in the sense that no other known compounds combine a musky-ambrette note with a green note.

The office action correctly notes that the compounds of the invention and Giersch differ by the present in an unsaturated bond. The office action is incorrect, however, in assuming that since the present compounds differ from that of Giersch only by the presence of a double bond there is a presumed expectation of similar properties because the compounds are homologues. This presumption is incorrect because these compounds have significantly different properties and utilities. Although both compounds are useful as perfuming ingredients, the present compounds have distinctly different odor properties and organoleptic utilities.

The prior art compound 4-(3,3-dimethyl-1-cyclohexyl)-2,2-dimethyl-3-possess musky odor as well as a floral undernote and a fruity character of the pear type, i.e. has a combination of the ambrette and fruity-pear character. The musky character becomes even more important in the case of the optically active compounds. For the sake of clarity it can be useful to mention that by fruity character it is intended in the art a note having a typical sweet character.

Therefore, the character of the odor properties of the present compounds differs from the ones of the prior art by having a green-Galbanum character. This green note is a foliage/acidic note and is totally absent from the odor of the prior art compound which possesses

a fruity/sweet note. The odor character of the compounds of the present invention is defined in the specification in paragraphs [0012] to [0014] and is unique in the sense that combines a musky and green odor in a single compound. In addition, the odor is very diffusive and this is rare for a compounds that possess a musky note. These differences are all the more surprising and unexpected in view of the compounds disclosed in Giersch which do not possess these properties. Furthermore, they certainly are not obvious or extrapolatable from the prior art compound described in Giersch. Indeed, there is nothing in Giersch that leads a skilled artisan to foresee the presently claimed odor character simply based on the structural similarity of the prior art compound.

The presently claimed compounds and in particular, 4-(3,3-dimethyl-1-cyclohexyl)-2,2-dimethyl-3-oxapentyl propenoate, have an odor which is different from that of the known methyl 4-(3,3-dimethyl-1-cyclohexyl)-2,2-dimethyl-3-oxapentyl propionate, in spite of the fact that they have very close structures. These two compounds, as such, are well suited for different applications, indeed the present compound (I) is particularly well fitted to be incorporated into masculine, aromatic or citrus type of preparation while the prior art compound is more fitted to be incorporated into feminine, oriental type of preparation.

In the art of perfumery, a skilled artisan cannot rely on structural closeness to predict the organoleptic characteristics of a specific compound, or the usefulness of the odor properties of the compound. Therefore, although the prior art and present compounds are related as structural homologues differing in the position of the double bond, the compounds are actually of different nature, with different properties and organoleptic utilities, and any presumption of property similarities between the compounds should be overcome.

These differences are clearly unexpected based on the disclosure of Giersch. Furthermore, these differences and advantages are defined in the attached Rule 132 declaration of Pierre-Alain Blanc. This evidence support the patentability of applicant's claims so that the rejection based on Giersch has been overcome and should be withdrawn.

Accordingly, it is believed that the entire application is now in condition for allowance, early notice of which would be appreciated. In the event that the Examiner does not agree that all claims are now allowable, a personal or telephonic interview is respectfully

requested to discuss any remaining issues in an effort to expedite the eventual allowance of this application.

Respectfully submitted,

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Date

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